Postal Regulatory Commission
Submitted 6/28/2021 4:06:30 PM
Filing ID: 119108
Accepted 6/28/2021

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Market-Dominant Price Change | Docket No. R2021-2

PUBLIC REPRESENTATIVE COMMENTS
(June 28, 2021)

On May 28, 2021, the Postal Service filed a notice of rate adjustments for market dominant domestic and international products and services, mailing promotions and changes to the Mail Classification Schedule (MCS).[1] The Commission established this proceeding on June 1, 2021, to consider those proposed adjustments and changes.[2] The Commission also appointed the undersigned to serve as Public Representative in this proceeding.[3]

I. INTRODUCTION

The Postal Service is proposing rate adjustments authorized under 39 U.S.C. § 3622 and subject to 39 C.F.R. part 3030 of the Commission's regulations. These are the first market dominant rate adjustments since the Commission's revision of the market dominant ratemaking system pursuant to 39 U.S.C. § 3622(d)(3).[4]

Prior to the issuance of Order No. 5763, market dominant rate adjustments, like the adjustments that are the subject of this proceeding, were subject to a price cap that adjusted annually for changes in inflation as reflected in the Consumer Price Index for All Urban Consumers (CPI-U). In addition, the Postal Service could base market dominant price increases on previously unused rate adjustment authority.[5]

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[1] United States Postal Service Notice of Market-Dominant Price Change, May 28, 2021 (Notice).

[2] Notice and Order on Price Adjustments and Classification Changes for Market Dominant Products, June 1, 2021 (Order No. 5905).

[3] *Id.* at 5. Assisting the Public Representative in this proceeding is Katalin K. Clendenin in the Commission's Office of Accountability and Compliance.

[4] Docket No. RM2017-3, Order Adopting Final Rules for the System of Regulating Rates and Classes for Market Dominant Products, November 30, 2020 (Order No. 5763).

[5] *See, e.g.,* Docket No. R2020-1, United States Postal Service Notice of Market-Dominant Price Change, October 9, 2020, at 4; *see also* 39 C.F.R. §3030.505 (July 1, 2020).

Under the rules adopted by Order No. 5763, the Postal Service has been given additional rate authority to address the effects of decreases in mail density (*see* 39 C.F.R. part 3030, subpart D), to provide revenue to meet certain retirement obligations (*see id.*, subpart E), and to increase rates for non-compensatory classes or products by an additional two percent (*see id.*, subpart G). Order No. 5763, Attachment A at 24-39.

The Commission's new rules also modify requirements for workshare discounts. Order No. 5763 at 198-225. Generally speaking, the revised requirements prohibit the reduction or increase of workshare discounts that are equal to avoided costs, prohibit the reduction of workshare discounts that are below avoided costs or the increase of workshare discounts that exceed avoided costs. *Id.* at 198-199. In addition, the Postal Service is given "several options to address any non-compliant workshare discounts identified in the most recent ACD or any discount being proposed in the rate adjustment proceeding that is low or excessive." *Id.* at 199.

Finally, Order No. 5763 eliminates the previous requirement that the objectives and factors set forth in 39 U.S.C §3622(b) and (c) be reviewed by the Commission in its pre-implementation review of market dominant rate adjustments. *Id.* at 255-265.

II. PRICE CAP COMPLIANCE

Before the Postal Service can exercise this new rate authority, the Commission must determine the amount of density-based and retirement-based available to the Postal Service, as well as the amount of rate authority, if any, available for non-compensatory mail classes. 39 C.F.R. § 3030.222(b).

On April 6, 2021, the Commission determined that the available amount of density-based rate authority is 4.500 percent, the available amount of retirement-based rate authority is 1.062 percent, and that an additional 2 percentage points of rate authority is available for the non-compensatory Periodicals Class and for the Package Services Class.[6]

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[6] Docket No. ACR2020, Determination of Available Market Dominant Rate Authority, April 6, 2021, at 6 (Order No. 5861).

When combined, the CPI-U cap space (1.244 percent), the density-based adjustment authority (4.500 percent), the retirement-based adjustment authority (1.062 percent), the additional 2 percentage points of rate authority for Periodicals and Package Service, and the class-specific banked cap space from prior years result in the following total available cap space for each of the Postal Service's five mail classes:

Table 1
Total Available Cap Space by Mail Class

Class	Total Cap Space (%)
First-Class Mail	6.818
USPS Marketing Mail	6.818
Periodicals	8.808
Package Service	8.812
Special Services	6.813

Source: Notice at 4 Table 3 "Total Available Cap Space."

Based upon the total cap space available for each mail class, the Postal Service is making the following percentage price changes by class:

Table 2
Price Changes by Class

Class	Percent Change
First-Class Mail	6.814
USPS Marketing Mail	6.814 [7]
Periodicals	8.771 [8]
Package Services	8.804 [9]
Special Services	6.808

Source: Notice at 5 Table 4 "Price Change Percentages." as corrected. *See* notes 7, 8, and 9.

The unused cap space available to each mail class for future use is:

Table 3
Resulting Unused Cap Space

Class	Remaining Cap Space (%)
First-Class Mail	0.004
USPS Marketing Mail	0.002
Periodicals	0.037
Package Services	0.008
Special Services	0.005

Source: Notice at 5 Table 5 "Unused Cap Space After Price Change Percentages," as corrected. *See* notes 7, 8, and 9.

[7] The price change and unused cap space percentages for USPS Marketing Mail originally set forth in Tables 4 and 5 of the Postal Service's Notice were subsequently corrected by the Postal Service. *See* United States Postal Service Responses to Chairman's Information Request No. 3, question 3, June 16, 2021 (Response to CHIR No. 3). *See also* United States Postal Service Notice of Errata and Revisions, June 21, 2021, at 1-2 (Postal Service Errata).

[8] The price change and unused cap space percentages for Periodicals originally set forth in Tables 4 and 5 of the Postal Service's Notice were subsequently corrected by the Postal Service. *See* Response of the United States Postal Service to Questions 1 and 2 of Chairman's Information Request No. 6, question 2, June 21, 2021 (Response to CHIR No. 6). *See also* Postal Service Errata at 2-4.

[9] The price change and unused cap space percentages for Package Services originally set forth in Tables 4 and 5 of the Postal Service's Notice were subsequently corrected by the Postal Service. *See* Response of the United States Postal Service to Questions 1 and 5-8 of Chairman's Information Request No.1, question 6, June 10, 2021 (Response to CHIR No. 1).

After reviewing the Postal Services Cap Calculation workpapers filed under seal, it appears that the Postal Service's proposed price adjustments do not exceed the price cap authority for any mail class and appear to conform to the requirements of title 39 of the United States Code and 39 C.F.R. part 3030.

III. THE PROPOSED RATES

The Postal Service proposes rate adjustments for postal products in all five market dominant mail classes: First-Class Mail, USPS Marketing Mail, Periodicals, Package Services, and Special Services. *See* Notice at 7, 13, 17, 24, and 25. The adjusted rates are scheduled to go into effect on August 29, 2021.[10] In addition, the Postal Service will continue to offer six promotional discounts in 2021 (*id.* at 28-32) and will introduce a $0.001 per piece rate incentive for Seamless Acceptance which automates the Postal Service's manual mail verification process (*id.* at 32-34). The Postal Service also explains how it has complied with the pricing requirements for certain preferred categories of mail. *Id.* at 34-36. Finally, the Postal Service identifies changes to the MCS needed to implement the planned rate changes. *See id.* at 36-37.

A. First-Class Mail

The Postal Service proposes a 6.814 percent average increase in First-Class Mail prices. *See* Notice at 7. The prices for two First-Class Mail products (Single-Piece Letters/Postcards and Inbound Letter Post) will increase less than the class average. Prices for the remaining three First-Class Mail products (Presort Letters/Postcards, Flats, and Outbound Single-Piece First-Class Mail International) are to increase by more than the class average.

The below average increase for Single-Piece Letters/Postcards will be 5.001 percent. Within that product, the first-ounce price for Stamped Single-Piece mail will increase 5.5 percent from 55 cents to 58 cents and the first-ounce price for Metered Single-Piece Mail will

[10] *Id.* at 1. The August 2021, implementation date departs from the previous January implementation schedule. The timing in future years remains to be determined. *Id.*

increase by 3.9 percent from 51 cents to 53 cents. The Postal Service states that these proposed changes will widen the differential between stamped mail and metered mail from 4 cents to 5 cents. It asserts that this change is being made to assist small businesses recover from the pandemic-induced economic downturn. The additional ounce rate for both stamped and metered mail is to remain at 20 cents. But the non-machinable surcharge is to increase from 20 cents to 30 cents.

The below average increase for Inbound Letter Post of 6.574 percent is based upon the anticipated increases in terminal dues that the Universal Postal Union Congress is expected to adopt.

The above average increase for the Presort Letters/Postcards product is 7.440 percent. *Id.* That increase is due in part to the 7.8 percent increase in the first-ounce rate for MAADC Automation mail, the 7.7 percent increase in the first-ounce for AADC Automation mail, and the 7.0 percent increase in the first-ounce for 5-Digit Automation mail. *See* Notice at 7, Table 7. The Postal Service states that this is the second consecutive above-average increase for Presort Letters after five consecutive years of slightly below-average increases. Notice at 10.

Also affecting the above average price increase for the Presort Letters/Postcards product is the Postal Service's introduction of a new rate structure for Nonautomation Machinable and Nonmachinable Letters. *See id.* at 8. The intent of this restructuring is "to incentivize greater presortation by mailers, increase pricing flexibility, and better align pricing structures across classes." *Id.* at 8-9. The restructuring introduces four new workshare discounts.[11] These workshare discounts are discussed in Section IV, below.

The above-average price increase for First-Class Flats is 10.318 percent. *See* Notice at 7. The Postal Service does not discuss the rationale for this increase. The Public Representative notes, however, that the cost coverage for First-Class Flats was only slightly

[11] *Id.* The four new workshare discounts are: Nonautomation — Machniable Mixed AADC; Nonautomation — Machinable AADC; Nonautomation Nonmachinable 3-D Letters; and Nonautomation Nonmachinable 5-D Letters. Response of the United States Postal Service to Chairman's Information Request No. 2, question 1.a., June 11, 2021 (Response to CHIR No. 2).

above 100 percent in FY 2020.[12] A ten percent increase will make a significant improvement in First-Class Flats cost coverage.

The above average price increase Outbound Single-Piece First-Class Mail International (FCMI) product is 8.351 percent. *See* Notice at 7, Table 6. That increase includes increases on Single-Piece FCMI letters, cards, and flats. Notice at 10. Once again, the Postal Service presents no discussion of the reasons for the above class average price increase.

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed First-Class Mail prices are consistent with the adjusted price cap.

B. USPS Marketing Mail.

The Postal Service proposes a 6.814 percent change in USPS Marketing Mail prices. *See* Table 2, *supra.* Four of the USPS Marketing Mail products are to increase below the 6.815 percent class average: Letters (6.581 percent), High Density / Saturation Letters (5.992 percent), High Density / Saturation Flats and Parcels (5.454 percent), and Every Door Direct Mail – Retail (5.208 percent).[13]

Although the price change for the High Density / Saturation Letters product is being increased less than the class average, the High Density Letter price category is receiving an above-average increase. *Id.* Similarly, the High Density Flats price category within the High Density / Saturation Flats and Parcels product is also receiving an above-average increase. *Id.* The Postal Service asserts that these above-average increases are being made to align these prices more closely with other presort levels and that volumes of both High Density Letters and Flats have been stable or increasing. *Id.* at 13.

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[12] *See* Docket No. ACR2020, Library Reference, USPS-FY20-1 - FY 2020 Public Cost and Revenue Analysis (PCRA) Report, FY20 Public CRA Files.zip, Excel file “Public_FY20CRAReport.xlsx,” tab “Cost 1.”

[13] *Id.* The price change initially proposed for Every Door Direct Mail --Retail was corrected by the Postal Service in its Response to Chairman’s Information Request No. 3, question 3.a. *See also* Postal Service Notice of Errata at 1-2. The revised percent change in the Every Door Direct Mail – Retail prices was not specified. *See id.*

Within the High Density / Saturation Flats and Parcels product, the price for Detached Marketing Labels and Detached Address Labels included on flat-shaped mail pieces increase by 16.7 percent and 18.2 percent, respectively. *Id.* at 14. Although each of these increases is well above the class-average increase (6.815 percent), on a per-piece basis, the increases (1.0 cent for each) are less dramatic on a per-piece basis. *See id.*

As part of its pricing proposal for High Density Flats, the Postal Service is creating a new 1-cent discount for High Density Flats on 5-Digit (direct pallets). *Id.* This workshare discount is discussed in Section IV., below.

Three of the USPS Marketing Mail products are to increase above the class-level average: Flats (8.819 percent), Parcels (9.367 percent), and Carrier Route (8.866 percent). Notice at 12.The rates for these products have been non-compensatory and above-average increases are being proposed by the Postal Service at the direction of the Commission.[14] These increases are discussed further in Section VII., below.

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed prices for USPS Marketing Mail are consistent with the adjusted price cap.

C. Periodicals.

The Postal Service proposes an overall increase in Periodicals prices of 8.771 percent. *See* Table 2 *supra.* These price increases are made possible by two additional percentage points of rate authority made available because Periodicals is a non-compensatory class. *See* Order No. 5861 at 6. The increases for the two products in this class—In-County Periodicals and Outside County Periodicals—are discussed further in Section VII., below.

In addition to the proposed price increases, the Postal Service made the following changes in the Periodicals price structure to improve cost coverage:

[14] *Id. See, e.g.,* Docket No. ACR2020, Annual Compliance Determination Report Fiscal Year 2020, March 29, 2021, at 41 ("the Postal Service must propose a price increase…that is at least 2 percentage points above the class average…."). (FY 2020 ACD). *See also, id.* at 46, 50.

- To achieve the desired revenue impact, it created a single price for all zone-based advertising pound pieces thereby increasing prices for Zones 1-4 and lowering prices in Zones 5-9.
- To facilitate a shift to uniform advertising zone prices and the use of cap authority in more efficient areas, it lowered pound prices.
- To encourage more efficient mail preparation, it continued the lowering of prices for tubs as opposed to sacks.
- To encourage the preparation of Carrier Route pieces and thereby reduce costs, it increased the price differential between basic Carrier Route and Machinable Automation 5-Digit Flats.

Id. at 20-21.

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed prices for Periodicals are consistent with the adjusted price cap.

D. Package Services.

The Postal Service proposes an overall increase in Package Services prices of 8.804 percent. *See* Table 2, *supra.* This increase is made possible by two additional percentage points of rate authority made available because Package Services is a non-compensatory class. *See* Order No. 5861 at 6. Two products within the class, Media Mail/Library Mail and Bound Printed Matter Parcels, were responsible for the class's failure to be compensatory. The increases for those two products are discussed in Section VII., below.

The remaining products within Package Services—Alaska Bypass Service and Bound Printed Matter Flats—were compensatory and their prices have been increased 6.989 percent and 7.435 percent, respectively, both of which are below the class average of 8.804 percent. *See* Notice at 24.

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed prices for Package Services are consistent with the adjusted price cap.

E. Special Services.

The Postal Service proposes a 6.808 percent change in Special Services prices.[15] Four of the Special Services products are to increase by less than the class average. Five of the products in this class are to increase by more than the class average.

The four products with increases below the class average are: Ancillary Services (5.801 percent), International Ancillary Services (5.449 percent), Caller Service and Reserve Service (6.766 percent), and Credit Card Authorization (4.762 percent). Notice at 26.

Although the price increase for Ancillary Services product will be below the class average, there are several component services will receive increases that are above the class average: Parcel Airlift prices, which were not increased in the last market dominant price case in Docket No. R2021-1, will increase an overall 12.2 percent in response to volume growth. The price for USPS Tracking for Marketing Mail Parcels will increase by 9.1 percent to reflect the alleged value of the service. And the prices for Stamped Cards will increase by 24.8 percent (from four to five cents).

One of the four Ancillary Services products whose price will increase by less than the class average, International Ancillary Services, has previously been found by the Commission to be non-compensatory. *See* FY 2020 ACD at 65. The below-average increase proposed for this product is discussed in Section VII, below.

The five products that will experience increases above the class average are: Address Management Services (7.384 percent), International BRM Service (10.096 percent), Money Orders (11.514 percent), Post Office Box Service (9.269 percent), and Stamp Fulfillment Services (7.784 percent). Notice at 26. Within the Address Management Services product, there are several services that will receive increases in excess of the 7.384 percent product price increase. *See* Notice at 28. Except for the 11.514 percent increase for Money Orders, the Postal Service offers no explanation for the size of these increases. The Postal Service states that the price increase for Money Orders is in response to the cost coverage concerns identified in the Annual Compliance Determination." *Id.* at 27. This is a reference to the Commission's finding that the Money Orders product is non-compensatory. *See* FY 2020

ACD at 54-55. The above-average increase proposed for Money Orders is discussed in Section VII, below.

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed prices for Package Services are consistent with the adjusted price cap.

IV. WORKSHARE DISCOUNTS

The new workshare rules adopted by Order No.5763 provide, in general, that workshare discounts that already equal 100 percent of avoided cost may not be changed; that workshare discounts that exceed avoided costs may not be increased; and that workshare discounts that fall short of avoided cost may not be decreased. 39 C.F.R. § 3030.282. Notwithstanding these generally applicable limitations, there are four limited situations in which the Postal Service may set workshare discounts in excess of 100 percent of avoided costs and an additional four limited situations in which the Postal Service may set workshare discounts below avoided costs. *See* 39 C.F.R.§§ 3030.283 and 3030.284.

In its Notice, the Postal Service discusses workshare discounts for four mail classes—First-Class Mail, USPS Marketing Mail, Periodicals, and Package Services. There are no workshare discounts for Special Services.

A. First-Class Mail

One existing First-Class Mail workshare discount passthrough (the passthrough for Automation Mixed ADC Flats) is set at 100 percent. *See* Notice, Attachment B, Tab: "FCM Flats." All other existing First-Class Mail discount passthroughs are set between 85 and 100 percent.[16]

The four new workshare discount passthroughs established as part of the new rate structure for Nonautomation Machinable and Nonmachinable Letters, *see* Section II.A.1., above) are set within a range of 85 to 100 percent. Notice at 8-9.

[16] *See* Notice, Excel file "Attachment B R2021-2.xlsx," tab "FCM Single Piece Letters, Cards," tab "FCM Bulk Letters, Cards," and tab "FCM Flats."

The proposed workshare discounts for First-Class Mail comply with the Commission's rules, and represent an improvement towards the Commissions goal to increase adherence to ECP principals.[17] In the FY 2020 ACD, the Commission found that nine workshare discounts had a passthrough of less than 85 percent, and one workshare discount had a passthrough over 100 percent. Under the proposed discounts, all passthroughs are at least 85 percent, and none exceed 100 percent.

The establishment of the new workshare discounts is supported by the Postal Service's description of the discounts in its Notice, and the information it provided in response to Chairman's Information Request No. 3, question 2. The Public Representative concludes that the discounts established have characteristics that constitute a "workshare activity" within the meaning of Section 3622(e), and therefore are subject to the workshare rules. Since the passthroughs of the new discounts fall in the range of 85 to 100 percent, the Public representative finds that the new discounts, are in fact consistent with the rules for worksharing, as 39 C.F.R.§§ 3030.284(b) permits passthroughs below 100 percent for new workshare initiatives. Additionally, the new discounts are not likely to have an adverse effect on customers who forgo the discounts, as the new discounts do not eliminate any current mailing options.

B. USPS Marketing Mail

Ten existing USPS Marketing Mail workshare discount passthroughs (the passthrough for Automation Mixed ADC Flats) are set at 100 percent.[18] Most other existing passthroughs are set between 85 and 100 percent. Notice at 14 (*citing* Attachment B).

1. Marketing Mail Letters

No Marketing Mail Letters workshare discount exceeds avoided cost; and, only one workshare discount has a passthrough below 85 percent. The Postal Service increased that discount by more than double that required by the rules. Consequently, the passthrough for

[17] *See* Docket No. RM2017-3, Notice of Proposed Rulemaking for the System for Regulating Rates and Classes for Market Dominant Products, December 1, 2017, at 87 (Order No. 4258).

[18] *See* Notice, Excel file "Attachment B R2021-2.xlsx," tab "USPS MM Letters", tab "USPS MM Flats Prst Prebcd", tab "USPS MM Prcls & Mkt Prcls", and tab "USPS MM Carrier Route."

Non-automation AADC Machinable Letters increased by 14 percentage points. The Public Representative acknowledges the Postal Service's efforts in aligning workshare discounts with avoided costs, and finds that all the proposed discounts for Marketing Mail Letter are consistent with worksharing rules.

2. Marketing Mail Flats & Parcels Dropship

The Postal Service set eight Flats & Parcels dropship discounts at below 85 percent passthrough, cutting the number of Flats & Parcels dropship passthroughs below 85 percent by half. All eight discounts were increased by more than the minimum increase required by the worksharing rules. The Public Representative finds that these proposed discounts are set consistent with the new workshare rules.

The dropship discount for Basic Carrier Route Flats entered at the Destination Delivery Unit (DDU) is set above 100 percent passthrough, and is inconsistent with the workshare rules. The Postal Service provides a reasonable explanation for setting the discount above avoided cost and references a pending rulemaking docket that is focused on the issues underlying this passthrough calculation.[19] Although the Public Representative agrees with the Postal Service that adhering to the worksharing rules in this instance creates problematic price relationships, the Postal Service should have obtained a waiver under §3030.286, paragraph (5), arguing that setting discounts in accordance with the worksharing rules would impede the efficient operation of the Postal Service or should have filed its petition for regarding the calculation and reporting of workshare discounts and percentage passthroughs for dropshipped Marketing Mail Carrier Route Flats further in advance of its price adjustment filing. Although the Commission, rejected allowing waivers based solely on pending rulemakings,[20] the Postal Service had other means to comply with the worksharing rules.

Nonetheless, since the instant docket is the first time the new workshare rules are implemented in a rate adjustment proceeding, the Public Representative urges the

[19] *See* Docket No. RM2021-6, Notice of Proposed Rulemaking on Analytical Principles Used in Periodic Reporting (Proposal Three). April 13, 2021.

[20] Order No. 5763 at 222-223.

Commission to allow a one-time exception to the workshare rules, as the issues raised in Docket No. RM2021-6 were not anticipated at the time the rules were developed. However, the Public Representative does not endorse the discounts proposed by the Postal Service for Marketing Mail Carrier Route Flats, because even under the merged reporting of workshare discounts for all Marketing Mail Carrier Route Flats combined, as advocated by the Postal Service in Docket No. RM2021-6, the discounts fail to comply with the workshare rules. As shown in the table below, the DDU discount for all Commercial and Nonprofit Basic Carrier Route Flats combined exceeds the costs avoided, in direct conflict with §3030.283.

Calculated Dropship Passthroughs for
All USPS Marketing Mail Commercial and Nonprofit Basic Carrier Route Flats Combined

	Q3FY2020-Q2FY2021 Billing Determinants [3]			Per-Pound Est. Avoided Cost vs. Origin [2]	Dropship Discount vs. Origin [1] (Nonprofit)		Dropship Discount vs. Origin [1] (Commercial)		Total Est. Avoided Cost vs. Origin ($1,000)	Total of the Piece-Rated and Pound-Rated Discounts ($1,000)	Combined Piece-Rated and Pound-Rated Dropship Passthrough
	Piece-Rated Vol. (1,000) (a)	Piece-Rated Lbs. (1,000) (b)	Pound-Rated Lbs. (1,000) (c)	(d)	Piece-Rated, per Piece (J)	Pound-Rated, per Pound (K)	Piece-Rated, per Piece (e)	Pound-Rated, per Pound (f)	(g)*	(h)**	(i) = (h)/(g)
DNDC	213,607.7	33,088.9	27,383.0	$0.375	$0.044	$0.175	$0.044	$0.175	$22,677	$14,191	62.6%
DSCF	3,318,084.5	455,251.8	382,310.9	$0.411	$0.056	$0.224	$0.056	$0.224	$344,238	$271,450	78.9%
DDU	43,665.0	4,107.3	2,915.2	$0.470	$0.064	$0.256	$0.064	$0.256	$3,301	$3,541	**107.3%**

* (g) = [(b) + (c)] x (d)
** (h) = [(a) x (e)] + [(c) x (f)] except for Nonprofit Machinable and Irregular Parcels (h) = [(a) x (J)] + [(c) x (K)]
[1] Source of Discounts: Docket No. R2021-2, Notice of Price Adjustment, Attachment A, Schedule
Discounts are calculated by subtracting the price in question from the benchmark price
[2] ACR 2020, December 29, 2020, USPS-FY20-3 Workbook: FY20.3 Worksharing Tables.xlsx, Tab: Flats & Parcels Dropship
[3] CAPCALC-USPSMM-R2021-1 Tab: Flats & Parcels Dropship Column J, K and L

In the event that Docket No. RM2021-6 is resolved before the Commission issues a decision in the instant docket, the Commission should require that the Postal Service adjust the discounts to comply with the worksharing rules, based on the methodology approved in that docket. Furthermore, the Commission should reiterate to the Postal Service that all discounts must be set consistent with the worksharing rules, and the Commission should strictly enforce the rules going forward.

3. Marketing Mail Parcels

Three Marketing Mail Parcels passthroughs fall outside the 85 percent to 100 percent range, with two passthroughs below and one above the range. This is a significant improvement compared with the existing workshare discounts, of which nine produce passthroughs outside that range, with five of the passthroughs exceeding 100 percent. The Public Representative finds that all proposed Marketing Mail Parcels workshare discounts are consistent with the worksharing rules, and more closely adhere to ECP principals than the existing discounts for Marketing Mail Parcels.

4. Marketing Mail High Density and Saturation Letters

Only one out of three proposed workshare discounts within Marketing Mail High Density and Saturation Letters falls below 85 percent passthrough, compared with two existing discounts with passthroughs below 85 percent. The Public Representative finds that all three proposed discounts are consistent with the worksharing rules.

5. Marketing Mail High Density and Saturation Flats

There are two Marketing Mail High Density and Saturation Flats workshare discounts, one of which is new. The new discount for High Density Flats on 5-Digit (direct) pallets has a 47.6 percent passthrough, which is permissible as §3030.284, paragraph (3), which allows new workshare discounts to be set below 85 percent passthrough. The other discount is set at nearly 100 percent passthrough. The Public Representative finds that both workshare discounts are consistent with workshare rules.

C. Periodicals

Periodicals have 17 workshare discount passthroughs set between 85 and 100 percent.[21] Thirteen passthroughs are set below 85 percent.[22]

Two Periodicals workshare discounts for presorting were found to be above 100 percent passthrough in the FY 2020 ACD. FY 2020 ACD at 15. Because Periodicals discounts are provided in connection with a subclass of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value (39 U.S.C. 3622(e)(2)(C)), the new worksharing rules permit the Postal Service to provide information specified in §3030.285, paragraphs (c)(1) through (3), in lieu of setting workshare discounts in accordance with provisions appearing in §3030.283(b) through (d). However, in the instant

[21] *See* Notice, Excel file "Attachment B R2021-2.xlsx," tab "Passthrough Outside County."

[22] *See* Notice, Excel file "Attachment R2021-2.xlsx," tab "Passthrough Outside County", and tab "Passthroughs_WC."

docket, the Postal Service chose to adjust the workshare discounts, leaving no Periodicals discounts with passthroughs above 100 percent.

The Public Representative finds that the proposed discounts are consistent with the new workshare rules, and more closely adhere to ECP principles than the existing Periodicals discounts.

D. Package Services

One existing Package Services workshare discount passthrough (the dropship passthrough for Basic, Carrier Route DSCF Parcels/IPPS) is set at 100 percent.[23] All other existing Package Services discount passthroughs are set between 85 and 100 percent.[24]

All of the proposed Package Services workshare discounts comply with the Commission's rules and represent an improvement towards the Commission's goal of increasing adherence to ECP principals. At the time of the FY 2020 ACD, two workshare discounts were found to be below 85 percent passthrough, and no passthrough equaled 100 percent. The proposed discounts all fall in the range of 85 to 100 percent passthrough, with one passthrough set at exactly 100 percent.

E. Proposed Changes to Worksharing Rules

In reviewing the Postal Service's worksharing passthroughs, the Public Representative has identified two changes to the new worksharing rules that would better reflect the Commission's intention of phasing out workshare discounts that are below or above 100 percent passthroughs.

In Order No. 4258, the Commission proposed phasing out workshare discounts set substantially below and above avoided costs. *See* Order No. 4258 at 93. To achieve that goal, the new worksharing rules sought to "encourage incremental improvement in pricing efficiency." Order No. 5337 at 193. Although the Commission admittedly intended to give the Postal Service more flexibility with regard to workshare discounts with passthroughs

[23] *See* Notice, Excel file "Attachment B R2021-2," tab "Bound Printed Matter Parcel."

[24] *See* Notice, Excel file "Attachment B R2021-2.xlsx," tab "Bound Printed Matter Parcel," tab: Bound Printed Matter Flats," and tab "Media Mail & Library Mail."

below 100 percent compared with workshare discounts with passthroughs above 100 percent, some of that flexibility can be used in a way that is counterproductive.

For example, with respect to workshare discounts below 100 percent, section 3030.284(e) of the worksharing rules allows the Postal Service to set workshare discounts below 100 percent passthrough as long as the passthrough for the proposed discount is at least 85 percent. Applied literally, this rule would allow the Postal Service to set workshare discounts below avoided cost in perpetuity in direct contravention of the Commission's goal of moving workshare discounts to 100 percent.

To address this problem, the Commission should consider revising its workshare rules further. Section 3030.284(e) currently reads as follows: "The percentage passthrough for the *proposed* workshare discount is at least 85 percent [emphasis added]." That section should be revised to read: "The percentage passthrough for the *existing* workshare discount is at least 85 percent [emphasis added]." This change would ensure that discounts with passthroughs below 85 percent will be moved toward 100 percent, while preserving the Postal Service's flexibility in adjusting discount with passthroughs below 100 percent.

With this change, it is unlikely that a passthrough would remain stuck between 85 and 100 percent, as cost avoidances tend to change from year to year. Regardless whether avoided costs increase or decrease, the remaing workshare rules facilitate movement towards greater pricing efficiency. If the costs avoided increase, the passthrough will be reduced, eventually falling below 85 percent. Workshare discounts with passthroughs below 85 percent require the Postal Service to increase the discount by a minimum of 20 percent or set the discount at 100 percent passthrough unless the Postal Service can obtain a waiver. If the costs avoided decrease, the passthrough will increase, moving closer to 100 percent, the desired out outcome.

Additionally, the Commission should consider revising its workshare rules prospectively to prohibit workshare discounts that exceed avoided cost from being reduced by more than necessary to reach a 100 percent passthrough. The 20 percent reduction to the discount as prescribed by §3030.283, paragraph (c) should only apply when the adjustment necessary to bring a passthrough to 100 percent would require more than 20 percent increase in the discount. The Commission's objective was to move discounts closer to ECP, not to permit discounts to bounce from above 100 percent passthrough to below 100 percent passthrough.

For example, in FY 2020, the passthrough for the workshare discount for First-Class Mail Automation Mixed AADC Letters was 117.3 percent. In the instant docket, the Postal Service reduced the discount by 26 percent, resulting in a passthrough of 86.5 percent. By contrast, a 15 percent reduction would have produced a rate relationships consistent with ECP principles. The proposed rule would have benefited users of the Automation Mixed AADC Letters discount because it would have capped the allowable decrease in the discount. It would be consistent with the "do no harm" principal, and prevent switching one harm for another. *See* Order No. 5337 at 193.

V. PREFERENTIAL RATES

A. Periodicals

The Public Representative has reviewed the Postal Service's Notice for compliance with the required statutory preferential rates for certain preferred mail categories.

For Periodicals, there are several requirements for the preferred categories. The Postal Service states that prices for Within County Periodicals reflect their preferred status. 39 U.S.C. § 3626(a)(3). It continues to keep the prices of Within County Periodicals below the prices of regular Outside County Periodicals. Notice at 34.

The Postal Service also states that consistent with past practice the proposed rates comply with the requirement for Nonprofit and Classroom Periodicals discounts from regular rate postage. Nonprofit and Classroom Periodicals receive a 5 percent discount on all components of postage except for advertising pounds and ride-along postage. *Id*.; 39 U.S.C. § 3626(a)(4)(A).

Consistent with past practice, Science of Agriculture Periodicals will receive preferential treatment for advertising pounds for DDU, DSCF, and DADC. The advertising pound prices for Zones 1 & 2 will be set at 75 percent of the advertising pound rates applicable to regular Outside County Periodicals.[25]

The limited circulation discount for Periodicals provides for preferential treatment for Periodicals with fewer than 5,000 Outside County pieces and at least one In-County piece. Such pieces continue to receive a discount equivalent to the Nonprofit Classroom Periodicals discount. *Id*. at 36; 39 U.S.C. § 3626(g)(4).

B. Marketing Mail

For Marketing Mail, nonprofit rates must yield per-piece revenue that equal, as nearly as practicable, 60 percent of the estimated commercial average per-piece revenue. 39 U.S.C. § 3626(a)(6)(A). The Postal Service Notice states that the proposed prices achieve a evenue per piece ratio of 60.15 percent.[26] It also states that nonprofit discounts are being maintained "equal to the comparable commercial discounts." *Id.* at 35 (footnote omitted).

C. Package Services

For Package Services, Library Mail must be as nearly as practicable to 95 percent of the Media Mail prices. The Postal Service states that it has followed this requirement by setting each Library Mail element equal to 95 percent of the corresponding Media Mail rate element. *Id*.; 39 U.S.C. § 3626(a)(7).

After review, the Public Representative concludes that the Postal Service fulfills the requirements of 39 U.S.C. § 3626(a)(3), (a)(4)(A), (a)(5), (g)((4)(C), (a)(6), and (a)(7).

VI. PROMOTIONS

The Postal Service will be offering six promotions during calendar year 2022. Four are available for both First-Class and Marketing Mail pieces (Earned Value Reply Mail,

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[25] The advertising pound prices were initially set at 54 percent of the prices applicable to regular Outside County Periodicals. Notice at 35. They were subsequently corrected to 75 percent of regular prices. *See* Response to CHIR No. 6, question 1. *See also* Postal Service Notice of Errata at 2-3.

[26] Notice at 34-35. The Postal Service also states that consistent with past practice it has calculated this ratio at class level. *Id.* n. 46.

Tactile, Sensory and Interactive Engagement, Emerging & Advanced Technology, and Informed Delivery). Notice at 30. One is available only for First-Class mail (Personalized Color Transpromo). *Id.* One is available only for Marketing Mail (Mobile Shopping).[27]

Earned Value Reply Mail

For Calendar Year 2022, the only revision to Earned Value Reply Mail was a change in the promotion period to April 1, 2022 to June 30, 2022. Notice, Appendix A at 106 (MCS at 65).

Emerging & Advanced Technology

For Calendar Year 2022, the promotion period is being changed to March 1, 2022 to August 31, 2022. *Id.* In addition, available discounts will depend on the complexity of the technology incorporated by eligible mailers. Technologies with low barriers to entry will receive a two percent discount. Technologies with high barriers to entry will receive a three percent discount. *Id.*

Informed Delivery

For Calendar Year 2022, the promotion period is being extended from three to five months (August 1, 2022 to December 31, 2022). *Id.* at 107 (MCS at 66). In addition, the discount is being increased from two to four percent. *Id.*

Mobile Shopping

For Calendar Year 2022, the promotion period is being changed to September 1, 2022 to December 31, 2022.[28] Aside from the change in the promotion period, the Mobile Shopping discount is not being updated from Calendar Year 2020. Notice at 32.

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[27] *See* Response of the United States Postal Service to Questions 1 and 3-9 of Chairman's Information Request No. 4, June 17, 2021, question 1.

[28] *See* Response of the United States Postal Service to Chairman's Information Request No. 2, question 2, June 11, 2021.

Personalized Color Transpromo

For Calendar Year 2022, the promotion period is being changed to July 1, 2022 to December 31, 2022. In addition, the requirement of dynamic variable messaging no longer is specified to be a “four color process” is removed. Notice, Appendix A at 60 (MCS at 19).

Tactile, Sensory and Interactive Engagement

For Calendar Year 2022, the promotion period is being changed to February 1, 2022 to July 31, 2022. In addition, the discount is being increased from two to four percent. Notice, Appendix A at 107 (MCS at 66). The scope of the discount is also being expanded to include First-Class Mail letters, postcards, and flats, as well as USPS Marketing Mail letters and flats. *Id.*

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed promotions are consistent with the provisions of applicable law and the requirements of 39 C.F.R. part 3030.

VII. NON-COMPENSATORY PRODUCTS

In its FY 2020 Annual Compliance Determination, the Commission found ten products to be non-compensatory. FY 2020 ACD at 2. Six of the non-compensatory products are in the compensatory mail classes of First-Class Mail, USPS Marketing Mail, and Ancillary Services. The remaining four non-compensatory products are in the non-compensatory Periodicals and Package Services mail classes.

A. Non-Compensatory Products Within Compensatory Classes

The six non-compensatory products that are in compensatory mail classes are: Inbound Letter Post, USPS Marketing Mail Flats, USPS Marketing Mail Parcels, USPS Mail Carrier Route, Money Orders, and International Ancillary Services. *Id.*

Section 3030.221 of the regulations adopted by Order No. 5763 requires, in general, that the Postal Service shall increase the rates for non-compensatory products within a compensatory mail class by a minimum of two percentage points above the percentage increase for that class. *See* 39 C.F.R. § 3030.221. An exception is provided for non-compensatory products for which the Postal Service lacks independent authority to set rates, such as rates set by treaty obligation. *Id.*

1. Inbound Letter Post

Inbound Letter Post is a market dominant product within First-Class Mail. In the FY 2020 ACD, the Commission found that although its cost coverage increased to 83.3 percent in FY 2020, Inbound Letter Post was non-compensatory. FY 2020 ACD at 57. The Commission recommended a number of steps that the Postal Service should take to improve cost coverage for Inbound Letter Post, but did not order the Postal Service to increase Inbound Letter Post rates. *Id.* at 60.

The Commission's action was consistent with the provisions of 39 C.F.R § 3030.221, which provide an exception to the two percent minimum rate increase requirement available to products over which the Postal Service lacks independent authority to set. In the case of Inbound Letter Post, the rates are governed by UPU treaty obligations.

The Postal Service has proposed a 6.574 percent increase based upon the anticipated terminal dues price increases that are likely to be adopted by the UPU. Notice at 10. This proposed increase complies with the FY 2020 ACD and with 39 C.F.R. § 3030.221.

2. USPS Marketing Mail Flats

In the FY 2020 ACD, the Commission found that the cost coverage for USPS Marketing Mail Flats had fallen to 66.3 percent. FY 2020 ACD at 30. The Commission directed the Postal Service to propose a price increase that is at least two percentage points above the class average for the USPS Marketing Mail class. *Id.* at 41.

In its Notice, the Postal Service proposes an increase of 8.819 percent, which is slightly more than two percentage points above the class average of 6.815 percent. Notice at 12. This proposed increase complies with the FY 2020 ACD and with 39 C.F.R. § 3030.221.

3. USPS Marketing Mail Parcels

In the FY 2020 ACD, the Commission found that the Commission found that the cost coverage for USPS Marketing Mail Parcels had risen to 76.5 percent, but was still well below 100 percent. FY 2020 ACD at 42. The Commission directed the Postal Service to propose a price increase that is at least two percentage points above the class average for the USPS Marketing Mail class. *Id.* at 46.

In its Notice, the Postal Service proposes an increase of 9.367 percent, which is more than two percentage points above the class average of 6.815 percent. Notice at 12. This proposed increase complies with the FY 2020 ACD and with 39 C.F.R. § 3030.221.

4. USPS Marketing Mail Carrier Route

In the FY 2020 ACD, the Commission found that the cost coverage for USPS Marketing Mail Carrier Route had fallen to 96.0 percent. FY 2020 ACD at 46. The Commission directed the Postal Service to propose a price increase that is at least two percentage points above the class average for the USPS Marketing Mail class. *Id.* at 50.

In its Notice, the Postal Service proposes an increase of 8.866 percent, which is slightly more than two percent above the class average of 6.815 percent. Notice at 12. This proposed increase complies with the FY 2020 ACD and with 39 C.F.R. § 3030.221.

5. Money Orders

In the FY 2020 ACD, the Commission found that the cost coverage for Money Orders had fallen below 100 percent to 97.7 percent. *See* FY 2020 ACD at 54-55. The Commission recommended that the Postal Service propose an above average price increase consistent with 39 C.F.R. § 3030.221. *Id.* at 55.

In its Notice, the Postal Service proposes an increase of 11.5 percent, which is substantially above the class average of 6.815 percent. Notice at 26-27. This proposed increase complies with the FY 2020 ACD and with 39 C.F.R. § 3030.221.

6. International Ancillary Services

In the FY 2020 ACD, the Commission found that the International Ancillary Services product was non-compensatory in FY 2020 because two components of the product, Inbound International Registered Mail and Outbound International Return Receipt, were non-compensatory. FY 2020 ACD at 65. The Inbound International Registered Mail component was transferred to the Competitive product list effective January 1, 2020. *Id.* With respect to Outbound International Return Receipt, the Commission stated that it would "continue to evaluate the cost coverage of this product in future years and makes no recommendations on Outbound International Receipt at the time." *Id.* at 66.

In its Notice, the Postal Service proposes an increase of "11.8 percent for International Return Receipt [which the Postal Service states] should address the cost coverage concerns identified in the Annual Compliance Determination." Notice at 27. The Postal Service gives no indication of the anticipated effect this increase will have on the cost coverage of the International Ancillary Services product.

In light of the Commission's action in the FY 2020 ACD, it would appear that the proposed increase in International Return Receipt is acceptable. However, it remains unclear whether the proposed increase will result in an increase in the cost coverage of the International Ancillary Services product that is at least two percentage points above the Ancillary Services class average of 6.808 percent as required by 39 C.F.R. § 3030.221.

B. Non-Compensatory Products Within Non-Compensatory Classes

The four noncompensatory products that are in non-compensatory mail classes are: Periodicals In-County, Periodicals Outside County, and the Package Services products of Media Mail/Library Mail and Bound Printed Matter (BPM) Parcels. *Id.*

1. The Periodicals Class

In the FY 2020 ACD, the Commission found that the Periodicals class failed to cover was non-compensatory. FY 2020 ACD at 2, 20. Both products in the Periodicals class—In-

County Periodicals and Outside County Periodicals--are non-compensatory. Fy 2020 ACD at 2.

On April 26, 2021, the Commission determined that an additional two percentage points of rate authority is available under 39 C.F.R. § 3030.222(b).[29] By virtue of Order No. 5861, the Postal Service has 8.808 of available cap space for the Periodicals class. *See* Notice at 4 Table 3. Exercise of this additional rate authority is optional at the discretion of the Postal Service. 39 C.F.R. § 3030.222(a). The Postal Service has chosen to use 8.806 percent of the available cap capacity. *See* Notice at 5 Tables 4 and 5, and 20.

a. In-County Periodicals

In-County Periodicals, will be increased by 8.311 percent, which is below the class average. *Id.* at 20.

b. Outside County Periodicals

Outside County Periodicals will be given a slightly higher above-average increase of 8.832 percent. *Id.*

2. The Package Services Class

In the FY 2020 ACD, the Commission found that the Package Services class covered only 92.5 percent of attributable costs. *See* FY 2020 ACD at 51 Table III-6. The entire class was non-compensatory because of two non-compensatory products—Medial Mail/Library Mail and Bound Printed Mail (BPM) Parcels. *Id.* at 51-52.

On April 26, 2021, the Commission determined that an additional two percentage points of rate authority is available under 39 C.F.R. § 3030.222(b).[30] By virtue of Order No. 5861, the Postal Service has 8.812 of available cap space for the Periodicals class. *See* Notice at 4 Table 3. Exercise of this additional rate authority is optional at the discretion of

[29] Docket No. ACR2020, Determination of Available Market Dominant Rate Authority, April 6, 2021, at 6 (Order No. 5861).

[30] Docket No. ACR2020, Determination of Available Market Dominant Rate Authority, April 6, 2021, at 6 (Order No. 5861).

the Postal Service. 39 C.F.R. § 3030.222(a). The Postal Service has chosen to use 8.804 percent of the available cap capacity.[31]

a. Medial Mail/Library Mail

In the FY 2020 ACD, the Commission found that the cost coverage for Media Mail/Library Mail was 79.3 percent. FY 2020 ACD at 51. The Commission recommended that the Postal Service propose an above-average price increase in its next rate case. *Id.* at 53. In its Notice, the Postal Service proposes an increase of 10.865 percent which is over 2 percent above the class average of 8.804 percent. Notice at 24. This proposed increase complies with the FY 2020 ACD and with 39 C.F.R. § 3030.221.

b. Bound Printed Matter (BPM) Parcels

In the FY 2020 ACD, the Commission found that the cost coverage for BPM Parcels Marketing Mail Flats had fallen to 94.0 percent. FY 2020 ACD at 53. The Commission recommended that the Postal Service propose an above-average price increase in its next rate case. *Id.* at 54. In its Notice, the Postal Service proposes an increase of 6.666 percent which is more than 2 percent below the class average of 8.804 percent. Notice at 24. The Postal Service states that the 6.666 percent increase is projected to result in a cost coverage for BPM Parcels. Notice at 25. By limiting the increase for BPM Parcels to 6.666 percent, it preserves cap space for other products while awaiting Commission approval of its proposal to transfer BPM Parcels to the Competitive product list.[32] This proposed increase complies with the FY 2020 ACD and with 39 C.F.R. § 3030.221.

Respectfully submitted,

Richard A. Oliver
Public Representative

[31] In its Notice, the stated price change percentage for Package Services was 8.806 percent. Notice at 5 Table 4, and 20. That percentage was subsequently corrected to be 8.804 percent. *See* note 7, *supra.*

[32] *Id. See* Docket No. MC2021-78, United States Postal Service Request for Transfer Bound Printed Matter Parcels to the Competitive Product List, March 26, 2021.

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